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Time allotted to each speaker is determined by the Chair, however, comments are limited to no more than three (3) minutes **total per subject** regardless of the number of those wishing to speak. Submit requests to speak to the City Clerk **prior** to the start of the meeting. Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by Council on any issue brought forth under “Non-Agenda Public Comment.”

**COUNCIL, CITY ATTORNEY, CITY MANAGER COMMENT**

**REQUEST FOR CONTINUANCE**

The Council will now consider requests to continue specific items.

**=== LEGISLATIVE SCHEDULE ===**

**Adoption Agenda, Discussion, Other Legislative Items**

- ITEM-330:            Two actions related to the Black Mountain Ranch FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment. (Black Mountain Ranch Community Area. District 1.)  
**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**  
On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation.
- ITEM-331:            Two actions related to the Del Mar Mesa FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment. (Del Mar Mesa Community Area. District 1.)  
**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**  
On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation.
- ITEM-332:            Two actions related to the Rancho Penasquitos FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment. (Rancho Penasquitos Community Area. District 1.)  
**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**  
On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation.

=== **LEGISLATIVE SCHEDULE (Continued)** ===

Noticed Hearings, Discussion

ITEM-333: Del Cerro Heights Upper Gate. (Navajo Community Plan Area. District 7.)

Matter of the appeal by Lisa Worley and Del Cerro Heights HOA regarding the Planning Commission's denial of a request by the Del Cerro Heights Homeowner's Association for Planned Development Permit No. 9812, Amending Planned Residential Development Permit No. 15, to allow controlled access/egress of an existing "emergency access only" gate by residents. Said gate is located adjacent to Pasatiempo Avenue. CITY MANAGER'S RECOMMENDATION: Adopt the resolution in Subitem A to grant the appeal and overturn the decision of the Planning Commission and to grant the permit; and adopt the resolution in Subitem B.

ITEM-334: Sea Breeze Carmel View Local Coastal Program Amendments. (Carmel Valley Community Plan Area. District 1.)

Matter of approving, conditionally approving, modifying or denying the California Coastal Commission's suggested modifications to the amended Carmel Valley Neighborhood 8 Precise Plan, which was approved by the City Council on November 30, 2004.

The Carmel Valley Neighborhood 8 Precise Plan is located within the Coastal Zone; therefore, the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments must be made by the California Coastal Commission. On July 14, 2005, the California Coastal Commission certified the LCP amendment with suggest modifications. The City Council will consider these modifications at this hearing.

CITY MANAGER'S RECOMMENDATION: Adopt the resolutions.

**=== LEGISLATIVE SCHEDULE (Continued) ===**

Adoption Agenda, Discussion, Other Legislative Items

ITEM-335:           Selecting Morgan Lewis and Bockius for Representation of the City of San Diego in Matters with the U. S. Attorney.  
DEPUTY MAYOR ATKINS' RECOMMENDATION: Adopt the resolution.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

**=== EXPANDED CITY COUNCIL AGENDA ===**

**ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS**

**RESOLUTIONS:**

ITEM-330: Two actions related to the Black Mountain Ranch FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See City Manager Report CMR-05-207; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006 Draft. Black Mountain Ranch Community Area. District 1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2006-390)

Approving the document entitled "Black Mountain Ranch Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2006".

Subitem-B: (R-2006-391)

Resolution of Intention to designate an area of benefit in Black Mountain Ranch and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation. (Councilmembers Peters, Young, and Frye voted yea. Councilmember Atkins not present.)

Staff: Angela Abeyta – (619) 533-3674

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-331: Two actions related to the Del Mar Mesa FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See City Manager Report CMR-05-206. Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006 Draft. Del Mar Mesa Community Area. District 1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2006-423)

Approving the document entitled "Del Mar Mesa Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2006".

Subitem-B: (R-2006-424)

Resolution of Intention to designate an area of benefit in Del Mar Mesa and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation. (Councilmembers Peters, Young, and Frye voted yea. Councilmember Atkins not present.)

Staff: Cheryl Robinson – (619) 533-3679

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-332: Two actions related to the Rancho Penasquitos FY 2006 Public Facilities Financing Plan and Facilities Benefit Assessment.

(See City Manager Report CMR-05-209; Public Facilities Financing Plan and Facilities Benefit Assessment, Fiscal Year 2006 Draft. Rancho Penasquitos Community Area. District 1.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2006-350)

Approving the document entitled "Rancho Penasquitos Public Facilities Financing Plan and Facilities Benefit Assessment, FY 2006".

Subitem-B: (R-2006-351)

Resolution of Intention to designate an area of benefit in Rancho Penasquitos and setting the time and place for holding a public hearing thereon.

**LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:**

On 10/19/2005, LU&H voted 3-0 to approve the City Manager's recommendation (Councilmembers Peters, Young, and Frye voted yea. Councilmember Atkins not present.)

Staff: Jennifer Carroll – (619) 533-3673



ADOPTION AGENDA, DISCUSSION, HEARINGS

NOTICED HEARINGS:

ITEM-333: Del Cerro Heights Upper Gate.

Matter of the appeal by Lisa Worley and Del Cerro Heights HOA regarding the Planning Commission's denial of a request by the Del Cerro Heights Homeowner's Association for Planned Development Permit No. 9812, Amending Planned Residential Development Permit No. 15, to allow controlled access/egress of an existing "emergency access only" gate by residents. Said gate is located adjacent to Pasatiempo Avenue.

(See City Manager Report CMR-05-114. Navajo Community Plan Area. District 7.)

(Continued from the meetings of May 24, 2005, Item 334, and September 13, 2005, Item 331, last continued at the request of Matt Peterson representing the Del Cerro Heights Homeowners Association, in order to complete the Traffic Impact Analysis Report.)

**NOTE:** Hearing open. No testimony taken on 5/24/2005. Hearing open. Testimony taken on 9/13/2005.

**CITY MANAGER'S RECOMMENDATION:**

Adopt the resolution in Subitem A to grant the appeal and overturn the decision of the Planning Commission and to grant the permit; and adopt the resolution in Subitem B:

Subitem-A: (R-2005- )

Adoption of a Resolution granting or denying the appeal, and upholding or overturning the decision of the Planning Commission and granting or denying Planned Development Permit No. 9812, with appropriate findings to support Council action.

Subitem-B: (R-2005- )

Adoption of a resolution certifying that Mitigated Negative Declaration Number No. 5937, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 *et seq.*) as amended, and the State Guidelines thereto (California Administration Code Section 15000 *et seq.*), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council;

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

Subitem-B: (Continued)

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and approving the Mitigated Negative Declaration;

That pursuant to California Public Resources Code Section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

**OTHER RECOMMENDATIONS:**

Planning Commission on February 3, 2005, voted 5-0 to deny; was opposition.

Ayes: Steele, Garcia, Chase, Schultz, Otsuji

Not present: Ontai

The Navajo Community Planning Group has recommended approval of this project.

**CITY MANAGER SUPPORTING INFORMATION:**

The Del Cerro Heights Upper Gate PDP, amending PRD No. 15, proposes to permit the modification of an existing gated entry for controlled access by residents. The development is located south of Camino Rico, west of Pasatiempo Avenue and east of Bernadette Lane, within the Navajo Community Plan Area.

In 1971, the City Council approved PRD No. 15, which allowed development of 230 dwelling units in the RS-1-7 and Hillside Review Overlay Zones. This development was approved with two access points which include a main entry gate, "Lower Gate", at Camino Rico, and a second gated access, "Upper Gate", at Rancho Park Drive west of Pasatiempo Avenue. Due to neighborhood concerns regarding traffic impacts on existing streets, the Upper Gate was restricted for use to emergency vehicles only.

In 1976, the City Council denied a request to allow use of the Upper Gate by residents, finding that no material change in circumstances had occurred since approval of the original permit, and that the opening of the Upper Gate would create more traffic on neighboring streets.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

**CITY MANAGER SUPPORTING INFORMATION:** (Continued)

In 1978 and 1979, amendments to PRD 15 allowed revisions in housing products types and resulted in a reduction of the total number of dwelling units from 230 to 179. These 179 units are existing.

In 1987, the Del Cerro Heights HOA filed an application to amend PRD 15 to allow modification of the Upper Gate to allow general ingress and egress by residents of the development. The Planning Director's decision to deny the request was appealed to the Planning Commission. The Planning Commission denied the appeal of the Planning Director's decision, and the Upper Gate was required to remain available for emergency use only. The Planning Commission's decision was appealed to the City Council which determined that there was no material change in circumstance and affirmed the Planning Commission's decision to deny the appeal. The Upper Gate has remained restricted to emergency use only.

In 2003, the Del Cerro Heights HOA filed the current application for a PDP, again requesting that controlled access of the Upper Gate be permitted for residents. Guests and delivery vehicles would be restricted to using the Lower Gate located at the main entrance. The Applicant's request indicates that since the PRD was approved, there have been changes in circumstances which warrant modification of the Upper Gate to allow controlled access. A copy of this information is included as Attachment 10.

On February 3, 2005, the Planning Commission voted 5-0 to deny the application for amendment. The Commissioners concluded that the property owner currently has the ability to install an emergency access gate providing ingress and egress, which would serve their needs as required by the existing PRD. Copies of the resolution of denial and the approved meeting minutes are included as Attachment 15 and 16 respectively.

On February 3, 2005, an adjacent property owner filed an appeal indicating that a gate associated with an 18-foot wide access easement leading to an existing City Reservoir has been locked. The easement is off-site to the PRD 15 boundary. This access easement has been improved with an asphalt roadway and leads from the terminus of Rockhurst Court public right-of-way (cul-de-sac), upward to an existing reservoir. This roadway is adjacent to an existing cul-de-sac within the Del Cerro Heights development (Caminito de la Taza) and is unrelated to the access issue from the Upper Gate. A copy of this appeal is included as Attachment 17.

On February 16, 2005, the Del Cerro Heights HOA filed a separate appeal indicating that the findings to deny the request were not supported. A copy of this appeal is included as Attachment 17.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-333: (Continued)

**FISCAL IMPACT:**

None with this action. All staff costs associated with processing this project are recovered from a separate deposit account provided and maintained by the Applicant.

Halbert/Frazier/WCT

**LEGAL DESCRIPTION:**

The 52-acre site is generally located west of Pasatiempo Avenue between Rockhurst Court and Camino Rico, easterly of College Avenue, in the RS-1-7 (Single-Family Residential) Zone of the Navajo Community Plan Area. The project site is legally described as Del Cerro Heights, Units 1-4, Map Nos. 7586, 7923, 7924, and 7925.

Staff: Bill Tripp - (619) 446-5273.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: Sea Breeze Carmel View Local Coastal Program Amendments.

Matter of approving, conditionally approving, modifying or denying the California Coastal Commission's suggested modifications to the amended Carmel Valley Neighborhood 8 Precise Plan, which was approved by the City Council on November 30, 2004.

The Carmel Valley Neighborhood 8 Precise Plan is located within the Coastal Zone; therefore, the City Council's decision requires amending the City's Local Coastal Program. As a result, the final decision on the amendments must be made by the California Coastal Commission. On July 14, 2005, the California Coastal Commission certified the LCP amendment with suggest modifications. The City Council will consider these modifications at this hearing.

(MND/Neighborhood 8 Precise Plan/LCP. Project No. 4449. Carmel Valley Community Plan Area. District 1.)

**CITY MANAGER'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2006-377)

Adoption of a Resolution certifying that the information contained in the final Mitigated Negative Declaration, including any comments received during the public review process, has been reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guideline Section 15162 would warrant any additional environmental review in connection with approval of the California Coastal Commission suggested modifications to the amended Carmel Valley Neighborhood 8 Precise Plan and the Local Coastal Program approved by the City Council on November 30, 2004, for the Sea Breeze Carmel Valley Project;

That the City Clerk is directed to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2006-378)

Adoption of a Resolution accepting and approving the California Coastal Commission's suggested modifications for the Sea Breeze Carmel View and Carmel Valley Neighborhood 8 Precise Plan.

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

**OTHER RECOMMENDATIONS:**

Planning Commission on November 4, 2004, voted 5-0 to recommend to the City Council that they approve staff's recommendations; was opposition.

Ayes: Ontai, Schultz, Lettieri, Chase, Otsuji

Recusing: Garcia

Not present: Steele

The Carmel Valley Community Planning Board on September 14, 2004, approved the original Precise Plan amendment. The proposed modifications were distributed to the Planning Board at their meeting October 11, 2005.

**CITY MANAGER SUPPORTING INFORMATION:**

The City Council approved amendments to the Carmel Valley Neighborhood 8 Precise Plan for the Sea Breeze Carmel View Project on November 30, 2004, changing the 4.5 acre site from very low residential (0.5-acre) and open space (4.0-acres) to commercial use. The Precise Plan amendments and associated rezone amended the City of San Diego Local Coastal Program (LCP) and also required approval and certification by the California Coastal Commission. On July 14, 2005, the Coastal Commission approved the LCP; however, the Coastal Commission's approval included suggested modifications to the Carmel Valley Neighborhood 8 Precise Plan. The modifications address the concentration of development within Neighborhood 8 as a whole, protection of hillside views, avoidance of impacts to sensitive biological resources, brush management encroachment, and for the Sea Breeze Carmel View project specifically, the adequacy of support retail uses and need for transportation demand management.

Before the LCP amendment can become effectively certified, the City must take formal action to adopt the Coastal Commission's suggested modifications to the Precise Plan. The City Council must approve or deny the modifications as proposed, without further revisions. If the revisions are not adopted as proposed, the LCP amendments, and associated project may not be implemented. As determined by City staff, the Coastal Commission's proposed modifications are consistent with and augment existing policies in the Precise Plan. Where policies will be made more restrictive, the proposed language generally provides some flexibility for implementation.

Oppenheim/Halbert/PXG

ADOPTION AGENDA, DISCUSSION, HEARINGS (Continued)

NOTICED HEARINGS: (Continued)

ITEM-334: (Continued)

**LEGAL DESCRIPTION:**

The project site is located southeast of the intersection of Interstate 5 and State Route 56, just north of the existing San Diego Jewish Academy, at the southwest corner of Carmel Creek and Shaw Ridge Road, in the Carmel Valley Neighborhood 8 Precise Plan area and is more particularly described as Section 19 of Township 14 South, Range 3 West of the USGS 7.5' Del Mar Quadrangle.

Staff: Patricia Grabski – (619) 446-5277

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

RESOLUTIONS:

ITEM-335: Selecting Morgan Lewis and Bockius for Representation of the City of San Diego in Matters with the U. S. Attorney.

**DEPUTY MAYOR ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2006- )

Selecting Morgan Lewis and Bockius for Representation of the City of San Diego in Matters with the U. S. Attorney;

Directing the City Attorney to prepare the necessary resolution.

**SUPPORTING INFORMATION:**

As part of the continued cooperation in the investigation of the City of San Diego, the Deputy Mayor has docketed the selecting of Morgan Lewis and Bockius for representation of the City of San Diego in matters with the U. S. Attorney.

Gattas

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT